

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re FOREIGN EXCHANGE BENCHMARK	:	13 Civ. 7789 (LGS)
RATES ANTITRUST LITIGATION.	:	
	:	<u>ORDER</u>
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on October 9, 2022, the parties filed a joint letter raising disputes over redactions to be applied to eighteen exhibits, all related to criminal and civil proceedings against alleged co-conspirator banks and individual traders. The disputes are resolved below.

In general, portions of the documents at issue that provide context should not be redacted. References to any monetary penalties actually paid should be redacted. Defendants' challenges to Plaintiffs' redactions regarding specific conduct not at issue in this case are denied. In plea allocution transcripts, fragments of colloquy that are unrelated to the substance for which the transcript is offered should be redacted.

Guilty Plea Agreements

- PTX 1587, 2667, 2672, 2677,¹ 2679: Defendants' requests to redact portions of the guilty plea agreements that provide context are DENIED with the following exceptions: (1) references to the amounts of fines (§ 9 in each agreement); (2) references to other "investigations identified in Attachment A (filed under seal)" (§ 15 in PTX 1587, 2672, 2679 and § 18 in PTX 2677) and (3) references to non-prosecution "for the conduct specifically identified in Paragraph 13" (§ 16(b) in PTX 1587, 2672, 2679 and § 19(b) in PTX 2677). Defendants' request to remove certain of Plaintiffs' proposed redactions concerning conduct not directly at issue in this action are DENIED. Those portions do not lend context to the unredacted portions of the document.
- PTX 2665, 2681: Defendants' requests to redact portions of the guilty plea agreements that provide context are DENIED.

¹ The parties' submission did not include a copy of PTX 2677 with proposed redactions. The Court assumes for purposes of this Order that the proposed redactions are in line with the similar documents addressed in this paragraph.

- PTX 2666: Defendants' request to preclude this exhibit in full is GRANTED.

Plea Allocution Transcripts

- PTX 1602,² 2673, 2678: Defendants' requests regarding adding or removing redactions of the following portions of the transcript are resolved as follows (all page numbers refer to the ECF pagination at the top of the page): GRANTED as to pages 8, 12, 30:1-20, 30:23-25, 32, 34, 37:6-25; DENIED as to pages 30:23-22, 31:1-8, 31:9-17, 37:1-5.
- PTX 2669: Defendants' requests regarding adding or removing redactions of the following portions of the transcript are resolved as follows (page numbers refer to the transcript's internal pagination at the top right of each page): GRANTED as to pages 3, 6:20-26, 13:1-13, 15, 17; DENIED as to pages 5, 6:1, 6:9-19, 13:14-16, 14, 16.
- PTX 2671: The parties' submissions did not contain a working copy of PTX 2671 with proposed redactions. In line with the rulings above regarding PTX 1602, 2673, 2678 and 2669, the Court intends to grant requests to redact fragments of colloquy that are unrelated to the substance for which the transcript is offered and generally to deny requests to redact portions that provide context and requests to unredact portions that concern conduct not directly at issue in this action.


Other Documents

- PTX 1591, 2670: Defendants' request to redact portions of the Informations that provide context are DENIED. Defendants' request to remove certain of Plaintiffs' proposed redactions concerning conduct not directly at issue in this action are DENIED.
- PTX 1594: Defendants' requests to redact portions of this consent order that provide context are DENIED except with respect to proposed redactions of ¶¶ 10, 57, 58, 59 and 72-77.
- PTX 2659, 2660: Defendants' requests to redact portions of the indictment and judgment are DENIED, and Defendants' objections to Plaintiffs' proposed redactions are OVERRULED, since Defendants' objections to admissibility are untimely and previously were withdrawn. The Court will, however, deliver a limiting instruction to the effect that the Judgment resulted from a finding of guilty after trial and that the jury did not need to find all of the allegations in order to convict.

² The parties' submission did not include a working copy of PTX 1602, but based on the parties' representations that it is identical to PTX 2673 and 2678, the Court assumes for purposes of this order that the same redactions are sought and objected to.

If any party wishes for the Court to give a limiting instruction, including those that the Court has previously agreed to give, the parties shall confer and jointly propose an instruction, showing any language on which they disagree during a break in advance of the Court's delivering the instruction. The requesting party shall request the instruction during trial when it is to be delivered.

Dated: October 10, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE